

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES EDWARD MITCHELL,

Defendant.

CR 04–11–BU–DWM–3

ORDER

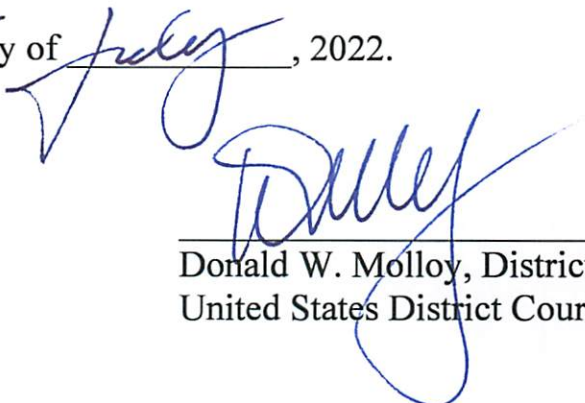
On July 15, 2022, United States Magistrate Judge Timothy J. Cavan entered Findings and Recommendations with respect to the disposition of the revocation proceedings stemming from the April 6, 2022 petition for revocation of Defendant James Edward Mitchell’s supervised release. (Docs. 323, 335.) The petition alleged three violations under Violation Number 1 regarding the use of unlawful substances and three violations under Violation Number 2 regarding participation in substance abuse testing. (*See* Doc. 323.) At the final revocation hearing on July 15, 2022, Mitchell admitted to all of the violations underlying Violation Number 1 and two of the violations underlying Violation Number 2. (*See* Doc. 335 at 3.) Based on the admitted violations, Judge Cavan recommends that supervised release be revoked and that this Court sentence Mitchell to 8 months custody followed by 52 months of supervised release. (*Id.* at 4.)

Neither party has filed objections. Failure to object waives the right to review. Fed. R. Crim. P. 59(b)(2). But consistent with the Court's "full authority" to review the Findings and Recommendations under any standard it deems appropriate, *Thomas v. Arn*, 474 U.S. 140, 154 (1958), the Court reviews for clear error. Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). Finding no clear error in Judge Cavan's conclusion that Defendant violated the conditions of his release in the manner set forth in the petition, and that Defendant's supervision should be revoked, the Court adopts those findings and recommendations. (*See* Doc. 335.)

Accordingly, IT IS ORDERED that Judge Cavan's Findings and Recommendations, (Doc. 335), is ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendant's supervised release is revoked. Judgment will be entered by separate document.

DATED this 29th day of July, 2022.



Donald W. Molloy, District Judge
United States District Court